

UNITED STATES DISTRICT COURT

DISTRICT OF SOUTH DAKOTA

WESTERN DIVISION

UNITED STATES OF AMERICA,	5:20-CR-50122
Plaintiff,	DEFENDANT'S RESPONSE TO THE
v.	GOVERNMENT'S MOTION TO AMEND
KIMBERLEE PITAWANAKWAT,	CONDITIONS OF PRETRIAL RELEASE
Defendant.	

COMES NOW Defendant, Kimberlee Pitawanakwat, by and through her Counsel, Jonathan P. McCoy of Costello, Porter, Hill, Heisterkamp, Bushnell & Carpenter, LLP, and responds to the Government's motion to amend the conditions of pre-trial release as follows:

The Government has not provided the phone and video chat recordings it obtained for the period between November 27, 2020 and July 15, 2021, to the Defendant. Doc. 124. Though the Government provided 66 pages of written messages as an attachment to its motion between the co-defendants, the Government's motion relies on the telephone recordings because written messages contain zero communication between them encouraging Ms. Pitawanakwat to converse with witnesses. In fact, the written messages suggest that Ms. Pitawanakwat encouraged Mr. Dull Knife to keep his legal counsel and did not entertain Mr. Dull Knife's efforts to communicate about the case.

In addition, Mr. Dull Knife is the father of a son by Ms. Pitawanakwat. Family and family concerns comprise the bulk of written communication. These communications

involve their son, and encompass the inherent emotions present in any relationship undergoing stress of federal charges and incarceration. As for Ms. Pitawanakwat, Waskoness Pitawanakwat (“Wasko”), her daughter, is the closest family the minor children have known. Wasko does babysit for Ms. Pitawanakwat and assists with childcare.

The record before the Court contains no evidence of Mr. Dull Knife encouraging Ms. Pitawanakwat to persuade Wasko to change her story. The record contains no written communication from Ms. Pitawanakwat saying she has made such efforts. And the Government has provided no recorded audio or visual conversations to that end.

There has been no obstruction of justice and no tampering with witnesses.

WHEREFORE Defendant prays this Court for its order denying the United States’ motion.

Dated this 19th day of October 2021.

**COSTELLO, PORTER, HILL, HEISTERKAMP,
BUSHNELL & CARPENTER, LLP**

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